

FREEDOM OF INFORMATION ACT ANNUAL REPORT INTERNAL REVENUE SERVICE

Fiscal Year 2003
October 1, 2002 through September 30, 2003

I. Basic Information Regarding the Report

A. Questions concerning this report may be directed to:

Director, Office of Disclosure
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

B. This report is available on the web at: <http://www.irs.gov/foia/index.html>

C. Copies of this report may be requested at the address provided in A. above.

II. How to Make a FOIA Request

A. Name and addresses of offices that receive FOIA requests.

- Please refer to Treasury Department consolidated Annual Report to Congress.

B. Time Ranges of Responses.

- Response times are from 1 to 1196 days, with an average response time of 34 days.

C. Description of why some requests are not granted.

- The majority of denials are requests for confidential tax information being sought by individuals who are not authorized to receive it or requests related to tax investigations, the disclosure of which might impair federal tax administration.

III. Definitions of Terms and Acronyms Used in Report

A. Agency Specific None.

B. Basic Terms Please see consolidated Treasury Report.

IV. Supporting Statutes Used with Exemption (b)(3)

A.1. Listing and brief description of type of information withheld under each statute:

- | | |
|-----------------------|---|
| <u>26 U.S.C. 6103</u> | Confidentiality of Returns and Return Information: Prohibits the disclosure of;
(1) tax returns and return information of third party taxpayers (section 6103(a));
(2) the standards used for selection of returns for examination (section 6103(b)(2)); and
(3) a requester's own return information if the release would seriously impair federal tax administration (section 6103(e)(7)). |
| <u>31 U.S.C. 5319</u> | Bank Secrecy Act Records: Prohibits the disclosure of BSA records. Generally used to withhold Currency Transaction Reports. |
| <u>26 U.S.C. 6105</u> | Newly codified Section 6105 protects records provided by foreign governments provided for use in tax administration. |
| <u>Rule 6(e)</u> | Part of the Federal Rules of Criminal Procedure – Grand Jury Secrecy: regulates matters occurring before the Grand Jury. Used to withhold records used in Grand Jury proceedings. |
| <u>18 U.S.C. 701</u> | Official Badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of IRS employee identification badges and pocket commissions. |
| <u>5 U.S.C. 7114</u> | Delineates the rights and duties of a labor organization which is the exclusive representative of the employees in the unit it represents. |
| 5 U.S.C. App. 107(a). | Ethics in Government Act, Appendix, provides for confidential reporting of the financial disclosure requirements of certain Federal personnel. |

A.2. Statement of whether a court has upheld the use of each statute:

- 26 U.S.C. 6103 *Church of Scientology v. IRS*, 484 U.S. 9 (1987); *Aronson v. IRS*, 973 F.2d 962 (1st Cir. 1992); *Stebbins v. Sullivan*, No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); *Wishart v. Commissioner*, C-97-20614-SW (N.D. Cal., decided August 6, 1998); and others.
- 31 U.S.C. 5319 *Small v. IRS*, 820 F. Supp. 163 (D.N.J. 1992)
- 26 U.S.C. 6105 *Tax Analysts v. IRS*, No. 99-0372, 2002 WL 1791162 (D.D.C. Aug. 6, 2002)
- Rule 6(e) *Fund for Constitutional Gov't v. National Archives & Records Service*, 656 F. 2nd 856, 867 (D.C. Cir. 1981); *Walston v. U.S. Department of Justice*, 799 F. Supp. 193, 195 (D.D.C. 1992).
- 18 U.S.C. 701 Not litigated.
- 26 U.S.C. 6105 *Tax Analysts v. IRS*, No. 99-0372, 2002 WL 1791162 (D.D.C. Aug. 6, 2002)
- 5 U.S.C. 7114 *Dublin v. Dept. of the Treasury*, 555 F. Supp. 408, 412 (N.D. Ga. 1981), aff'd, 697 F.2d 1093 (unpublished table decision); *NTEU v. OPM*, No. 76-695, slip op at 49 D.D.C. July 9, 1979).
- 5 U.S.C. App. 107(a). Not litigated.

V. Initial FOIA/PA Access Requests

A. Number of initial requests:

1. Requests Pending as of 10/01/02	4,258
2. Requests Received during FY 2003	50,605
3. Requests Processed during FY 2003	50,767
4. Requests Pending as of 09/30/03	4,096

B. Disposition of initial requests:

1. Total Grants	20,042
2. Partial Grants	2,798
3. Total Denials	515

a. Number of times each FOIA exemption was used (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	575	(b)(7)(E)	1232
(b)(2)	100	(b)(7)(A)	499	(b)(7)(F)	6
(b)(3)	2599	(b)(7)(B)	2	(b)(8)	0
(b)(4)	27	(b)(7)(C)	941	(b)(9)	0
(b)(5)	424	(b)(7)(D)	218		

4. Other reasons for non-disclosure of requested information:

Total of Others (as categorized below)	27,412
No Records	13,337
Referrals	2,196
Request Withdrawn	288
Fee-related reason	0
Not a proper FOIA request for some other reason	8,893
Misc. other reasons for not processing a request*	2,698

*Closed without determination because an appeal was filed; the records had previously been provided to the requester; or, the requester had not paid the fee from a previous request.

VI. Appeal of Initial Denials of FOIA/PA Requests

A. Number of appeals:

1. Received during FY 2003	575
2. Processed during FY 2003	675

B. Disposition of appeals.

1. Completely upheld	535
2. Partially reversed	16
3. Completely reversed	5

- 3.a. Number of times each FOIA exemption was used in a completely or partially upheld appeal case (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	1	(b)(6)	33	(b)(7)(E)	15
(b)(2)	10	(b)(7)(A)	5	(b)(7)(F)	0
(b)(3)	64	(b)(7)(B)	0	(b)(8)	0
(b)(4)	1	(b)(7)(C)	6	(b)(9)	0
(b)(5)	5	(b)(7)(D)	3		

4. Other reasons for non-disclosure during appeal process:

Total of Others (as categorized below)	119
a. No Records	0
b. Referrals	0
c. Withdrawn	0
d. Fee-related	0
e. Records not reasonably described	0
f. Treated as a non-appeal	0
g. Not an agency record	0
h. Duplicate request	0
i. Other (litigation due to failure to respond)	0

VII. Compliance with Time Limits/Status of Pending Requests

1. Median time for processing requests:

Simple Requests		
a.	Number of requests processed	0
b.	Median number of days to process	N/A
Complex Requests		
a.	Number of requests processed	50,767
b.	Median number of days to process	24
Expedited Requests		
a.	Number of request processed	0
b.	Median number of days to process	N/A

2. Status of pending requests (as of September 30, 2002):

Number of requests pending	4,096
Median age of pending cases	24

VIII. Comparison with Previous Year (Optional). Comparison not made.

IX. Costs/FOIA Staffing

A. Staffing levels, given in number of positions in agency:

Full-time FOIA personnel	15
Personnel with part-time or occasional FOIA duties (composite total, in work years)	89
Total personnel (in composite work years)	104

2. Total costs (including all staff and resources):

FOIA processing (including appeals)	\$10,202,769
Litigation related activities (estimated)	19,902
Total Costs	\$10,222,671

X. Fees

Total fees collected by the agency during FY 2002	\$ 154,546
Percentage of total costs	1.5%